

## **REMARKS**

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1-3, 5-12 and 14-18 are pending. Claims 1, 10 and 18 are independent, and have been amended.

Claims 1-3, 9-11 and 17-18 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2002/0118770 to Foshini. By this Amendment, the limitations of claim 4 have been included in independent claim 1. The limitations of claim 13 have been included in independent claim 10, and the limitations of claims 4 and 13 have been included in independent claim 18; thus, rendering this rejection moot.

Claims 4 and 13 stand rejected under 35 U.S.C. §103 as being unpatentable over Foshini in view of U.S. Patent Publication No. 2003/0048857 to Onggosanusi. By this Amendment, the limitations of claim 4 have been included in independent claim 1, the limitations of claim 13 have been included in independent claim 10, and the limitations of claims 4 and 13 have been included in independent claim 18. Applicants respectfully traverse this art grounds of rejection.

Effective November 29, 1999, the subject matter which was prior art under former 35 U.S.C. §103 via 35 U.S.C. §102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed

invention were at the time the invention was made owned by the same person or subject to an obligation of assignment to the same person.

The subject application and the Foshini application were, at the time the invention of the subject application was made, owned by Lucent Technologies. As such, the Foshini application is unavailable as prior art under 35 U.S.C. §103, and the Examiner's art grounds of rejection has been rendered moot.

Claims 6-8 and 14-16 stand rejected under 35 U.S.C. §103 as being unpatentable over the Foshini application. Applicants respectfully traverse.

As discussed above, the Foshini application is not available as prior art under 35 U.S.C. §103. Accordingly, Applicants respectfully request that the Examiner withdraw this and the above noted art grounds of rejection.

### **CONCLUSION**

In view of above remarks, reconsideration of the outstanding rejection and allowance of the pending claims is respectfully requested.

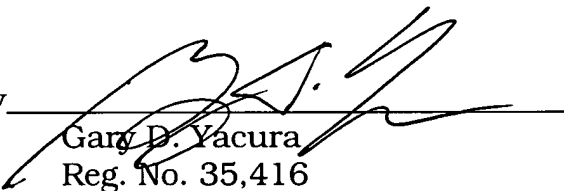
If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, PLC

By



Gary D. Yacura  
Reg. No. 35,416

GDY:jcp

P.O. Box 8910  
Reston, VA 20195  
(703) 668-8000